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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/544,823
Filing Date: April 06, 2000
Appellant(s): MAES ET AL.

William E. Lewis (Reg. No. 39,274)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/5/2006 appealing from the Office action mailed 2/28/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-12, 29, 36-56, 73, 80-87, and 90-91 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,418,439 to Papierniak et al..

Papierniak teaches the invention as claimed (As in exemplary claim 90) including a browser apparatus for use in providing access to an application by a user through one or more computer-based devices, comprising a machine readable medium containing computer executable code (col. 9, lines 25-53) which when executed permits the implementation of the steps of: obtaining the application from an application server (col. 9, lines 25-53), the application being programmatically represented by interaction that the user is permitted to have with one or more computer-based devices by interaction-based programming components (col. 9, lines 25-53), wherein the interaction-based programming components are independent of content/application logic and presentation requirements associated with the application (col. 9, lines 25-53); and transcoding the interaction-based programming components on a component by component basis to generate one or more modality specific renderings of the application on the one or more computer-based devices (col. 9, lines 25-53).

As to claims 1, 44, and 91, they feature the same limitations as claim 90 and are thus rejected on the same basis as claim 90.

As to claim 45, Papierniak teaches an apparatus wherein one or more processors are distributed over the one or more computer-based devices (col. 9, lines 25-53).

As to claim 46, Papierniak teaches an apparatus wherein at least a portion of the application is to be downloaded from a server to at least one of computer-based device, acting as a client, further comprising the step of including code in the application operative to provide a connection to the content/application logic resident at the server (col. 9, lines 25-53).

As to claim 47, Papierniak teaches an apparatus wherein the content/application logic connection expresses at least one of one or more data models, attribute constraints and validation rules associated with the application (col. 9, lines 25-53).

As to claim 48, Papierniak teaches an apparatus wherein one or more modality specific rendering comprise a speech-based representation of portions of the application (col. 9, lines 25-53).

As to claim 50, Papierniak teaches one or more modality-specific renderings comprising a visual-based representation of portions of the application (col. 9, lines 25-53).

As to claim 51, Papierniak teaches a visual-based representation based on HTML (col. 9, lines 25-53).

As to claims 52-54, Papierniak teaches user interactions declaratively and imperatively represented by the interaction-based programming components (col. 9, lines 25-53).

As to claim 55, Papierniak teaches interaction-based programming components comprising basic elements associated with a dialog that may occur between the user and one or more computer-based devices (col. 9, lines 25-53).

As to claim 56 Papierniak teaches interaction based programming components comprising complex elements, the complex elements being aggregations of two or more of the basic elements associated with the dialog that may occur between the user the one or more computer-based devices (col. 9, lines 25-53).

As to claim 73, Papierniak teaches a step of providing a mechanism for defining logical input events and the association between the logical input events and physical input events that trigger the defined logical input events (col. 9, lines 25-53).

As to claim 80, Papierniak teaches a step of including code for permitting changes to rules for transcoding on a component by component basis to generate the one or more modality specific renderings of the application on the one or more computer-based devices (col. 9, lines 25-53).

As to claim 81, Papierniak teaches a definition of an underlying data model being populated is separated from a markup language defining user interaction (col. 9, lines 25-53).

As to claim 82, Papierniak teaches a node_id attribute attached to each component and the attribute is mapped over to various outputs (col. 9, lines 25-53).

As to claim 83, Papierniak teaches an author provided with a pass through mechanism to encapsulate modality-specific markup components (col. 9, lines 25-53).

As to claim 84, Papierniak teaches components which may be active in parallel (col. 9, lines 25-53).

As to claim 85, Papierniak teaches a representation and transcoding as being extensible (col. 9, lines 25-53).

As to claim 86, Papierniak teaches a state of the application being encapsulated (col. 9, lines 25-53).

As to claim 87, Papierniak teaches a representation permitted to reference the dynamically generated data and supports callback mechanisms to the content/application logic (col. 9, lines 25-53).

As to claims 2-12, 29,, and 36-43, these claims have the same limitations claims 46-73, 78, and 80-87 and are thus rejected on the same basis as claims 46-56, 73, and 80-87.

Claims 5 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of the article entitled "New VXML Forum" posted at Cover Pages Hosted by Oasis.

As to claim 49, Papierniak teaches the use of audio views (col. 9, lines 25-53); however; Papierniak does not specifically teach the use of VoiceXML.

The article entitled "New VXML Forum" teaches the use of VoiceXML.

It would have been obvious for one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Papierniak regarding a speech application system with VoiceXML because VoiceXML is a form of SGML document and Papierniak shows a web passed system (col. 7, line 61-col. 8, line 10).

As to claim 5, it features the same limitation as claim 49 and is thus rejected for the same reason as claim 49.

Claims 13-28, 34, 57-72, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of U.S. Patent Number 6,269,336 to Ladd et al..

As to claim 57, Papierniak teaches the invention of claim 44 however; Papierniak does not explicitly teach the use of conversational gestures.

Ladd teaches interaction-based programming components represent conversational gestures (col. 12, lines 30-67).

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Papierniak regarding the transcoding of

application components with the teachings of Ladd regarding the use of conversational gestures because conversational gestures facilitate interaction with a user and an application component.

As to claim 58, Ladd teaches conversational gestures comprising a gesture for encapsulating contextual informational messages to the user (col. 12, lines 30-67).

As to claim 59, Ladd teaches conversational gestures comprising a gesture for encapsulating contextual help information (col. 12, lines 30-67).

As to claim 60, Ladd teaches conversational gestures comprising a gesture for encapsulating actions to be taken upon successful completion of another gesture (col. 12, lines 30-67).

As to claim 61, Ladd teaches conversational gestures comprising a gesture for encapsulating yes or no based questions (col. 12, lines 30-67).

As to claim 62, Ladd teaches conversational gestures comprising a gesture for encapsulating dialogues where the user is expected to select from a set of choices (col. 12, lines 30-67).

As to claim 63, Ladd teaches a gesture comprising a subelement that represents the set of choices (col. 12, lines 30-67).

As to claim 64, Ladd teaches a gesture comprising a subelement that represents a test that the selection should pass (col. 12, lines 30-67)

As to claim 65, Ladd teaches a gesture comprising a subelement that represents an error message to be presented if the test fails (col. 12, lines 30-67).

As to claim 66, Ladd teaches conversational gestures comprising a gesture for encapsulating rules for validating results of a given conversational gesture (col. 18, lines 56-65).

As to claim 67, Ladd teaches conversational gestures comprising a gesture for encapsulating grammar-processing rules (col. 18, lines 56-65).

As to claim 68, Ladd teaches conversational gestures comprising a gesture for encapsulating dialogues that help the user navigate through portions of the application (col. 12, lines 30-67).

As to claim 69, Ladd teaches conversational gestures comprising a gesture for encapsulating a request for at least one of user login and authentication information (col. 21, lines 25-40).

As to claim 70, Ladd teaches conversational gestures comprising a request for constrained user input (col. 12, lines 30-67).

As to claim 71, Ladd teaches conversational gestures comprising a request for unconstrained user input (col. 12, lines 30-67).

As to claim 72, Ladd teaches conversational gestures comprising a gesture for controlling submission of information (col. 12, lines 30-67).

As to claim 78, it is rejected for the same reasons as claim 57, as conversational gestures are interpreted as natural language.

As to claims 13-28 and 34, they feature the same limitations as claims 57-72 and 78 and are rejected for the same reasons as claims 57-72 and 78.

Claims 31-32 and 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of U.S. Patent Number 6,569,207 to Sundarsesan.

As to claim 75, Papierniak does not explicitly teach the use of a Java Bean for transcoding components.

Sundarsesan teaches the use of a Java Bean for transcoding components (col. 9, lines 6-37).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Papierniak regarding a speech application system with the Java and Java Beans because Java provides multi-platform functionality to an application.

As to claim 76, Papierniak does not explicitly teach the use of a Java Server Pages for transcoding components.

Sundarsesan teaches the use of Java Server Pages for transcoding components (col. 12, lines 29-49).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Papierniak regarding a speech application system with the Java and Java Server Pages because Java provides multi-platform functionality to an application.

As to claims 31-32, they feature the same limitations as claims 75-76 and are rejected on the same basis as claims 75-76.

Claims 30 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of the World Wide Web Consortium document entitled "Extensible Stylesheet Language (XSL) version 1.0" (hereinafter referred to as "XSL version 1.0 specification").

As to claim 74, Papierniak does not teach the use of XSL.

The XSL version 1.0 specification teaches component transcoding performed in accordance with XSL transformation rules (Overview, page 7).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Papierniak regarding a speech application system with XSL because XSL reduces the amount of code needed to create XML objects (Overview, page 7).

As to claim 30, it features the same limitation of claim 74 and is thus rejected on the same basis as claim 74.

Claims 33, 77, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of U.S. Patent Number 6,493,758 to McLain.

As to claim 77, Papierniak teaches the apparatus of claim 44; however, Papierniak does not explicitly teach synchronization on multiple devices.

McLain teaches an apparatus with a representation by interaction-based programming components permitting synchronization of one or more modality-specific renderings of an application on one or more computer-based devices (col. 3, lines 40-65).

It would have been obvious to one of ordinary skill in the Computer Networking art to combine the teachings of Papierniak regarding a speech application system with the teachings of McLain regarding synchronization because synchronization ensures that the application will be provided with up to date data (McLain, col. 4, lines 1-6).

As to claims 33 and 88, they feature similar limitations to claim 77 and are rejected on the same basis as claim 77.

Claims 35, 79, 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,418,439 to Papierniak et al. in view of U.S. Patent Number 6,456,974 to Baker et al..

As to claim 79, Papierniak teaches the apparatus of claim 44; however, Papierniak does not explicitly teach display aspects.

Baker teaches code for permitting cosmetic altering of a presentational feature associated with one or more modality-specific renderings of an application on one or more computer-based devices in an integrated speech based browsing system (col. 3, lines 7-32).

It would have been obvious to one of ordinary skill in the Computer Networking art to combine the teachings of Papierniak regarding a speech application system with the teachings of Baker regarding cosmetic altering changes because combining speech with cosmetic aspects creates smarter user interfaces (Baker, col. 1, lines 15-41).

As to claims 33 and 89, they feature similar limitations to claim 79 and are rejected on the same basis as claim 79.

(10) Response to Argument

Response to Argument 1:

The appellant argues that with respect to claims 1, 44, 90, and 91, that Papierniak does not disclose that "interaction-based programming components are independent of any modality and any modality specific browser" on page 9 of the Appeal Brief. In the next paragraph on

page 9, the appellant specifies that, "while Papierniak discloses a technique for translation of information into multiple media variations, the information before the translation is still in a modality specific (text) form, and is merely translated to another modality-specific format (audio, graphic, etc.). Thus, it cannot be concluded that the data or any programming components described in Papierniak are independent of any modality, as in the claimed invention." So the appellant is saying that text cannot be modality independent because text is a modality itself.

However, the text shown in Figure 7 of Papierniak is modality-independent because it can be converted to different modalities such as video, audio, or graphics according to the user's modality preference (col. 9, lines 38-53). Even if, for argument's sake, that the text shown in Figure 7 were considered modality specific, there is no limitation in the appellant's claims that makes modality-specific and modality independent mutually exclusive terms so the text of Figure 7 could be modality-specific and modality-independent and still read on the appellant's claimed invention. In other words just because the text of Figure 7 can be viewed as text, it does not mean that it cannot be viewed independently as video, audio, or graphics as taught by Papierniak.

The appellant's assertion that text cannot be modality independent because text is a modality itself contradicts even the appellant's specification. The appellant's invention translates Conversational Markup Language (CML) data that is modality-independent (Figure 14, Block 70 of appellant's specification), into modality specific languages such as HTML (block 77) and VoiceXML (block 78), as described in the summary on page 5 of the Appeal Brief. According to page 6, line 12 of the appellant's specification, "CML is a high level XML

based language". Since all XML languages are defined by text, CML must be defined by text as well. In fact, CML is defined entirely by text on pages 48-105 of the appellant's specification. Therefore the appellant's argument that text cannot be modality independent does not hold true because the appellant's claimed "interaction-based programming components" that are "independent of any modality and any modality specific browser" are actually CML and thus text.

The appellant's CML paradigm may be different from the invention of Papiernak but the invention claimed in claims 1, 44, 90, and 91 is not. In col. 9, line 58-col. 10, line 10, the sources 310b and 312b are modality independent because they can be presented as video, audio, text, and graphics to clients 302b, 304b, 306b and 308b based on specific instructions provided by the client.

The appellant further agues that the appellant cannot find declaratively and imperatively declared user interactions in Papiernak. The examiner contends that any program that presents information to a user is declarative in that it declares the information to the user, in the present case the video, audio, graphics or text of Figure 7 of Papiernak. The sources taught by Papiernak are considered imperative because they provide video, audio, graphics or text based on the criteria provided by the client (see col. 9, lines 54-67).

The appellant argues that the appellant cannot find basic elements associated with a dialog that may occur between the user and the one or more computer-based devices as in claims 11 and 55. The examiner contends that the interaction described in col. 9, lines 54-67 is a dialogue and is clearly associated with basic elements of the sources 310b and 321b.

The appellant argues that the appellant cannot find complex elements being aggregations of two or more of the basic elements associated with the dialog of claims 11 and 55, as claimed in claims 12 and 56. The examiner contents that any program code is considered complex elements.

Response to Argument 2:

The appellant argues that the statement made by the examiner that "VoiceXML is a form of SGML document" is based on subjective belief and unknown authority and therefore cannot be used as objective evidence to support obviousness. VoiceXML is a subset of XML. XML is a subset of SGML (the appellant can confirm this statement with a simple Google search). The system of Papiernak teaches a web-based system (col. 7, line 61-col. 8, line 10) as well as the presentation of audio. Papierniak does not explicitly teach the means for presenting the audio. VoiceXML is an obvious choice because of its similarities to web-based HTML which is also SGML based.

Response to Argument 3:

The appellant argues that Ladd does not teach the features of the claimed conversational gestures of the appellant's invention. The examiner contends that the conversational gestures claimed by the applicant are shown word for word in the cited potions of Ladd. The appellant further argues that the there is no motivation to combine. The examiner contends that the motivation to combine is stated in the rejection and not a subjective belief by an unknown authority.

Response to Argument 4:

The appellant further argues that the there is no motivation to combine. The examiner contends that the motivation to combine is stated in the rejection and not a subjective belief by an unknown authority.

Response to Argument 5:

The appellant further argues that the there is no motivation to combine. The examiner contends that the motivation to combine is stated in the rejection and not a subjective belief by an unknown authority.

Response to Argument 6:

Appellant argues that McLain does not show representation by the interaction-based programming components permitting synchronization of the one or more modality specific renderings of the application on the one or more computer based devices. However the appellant's specification does not provide any specific synchronization scheme, therefore McLain is relied upon to show that the broad concept of synchronization of one or more modality specific renderings was obvious at the time of the appellant's invention. Papierniak also shows synchronization among one or more different renderings (col. 5, lines 58-60) but does not explicitly teach synchronization among multiple devices. The appellant further argues that the there is no motivation to combine. The examiner contends that the motivation to combine is stated in the rejection and not a subjective belief by an unknown authority.

Response to Argument 7:

Appellant argues that Baker does not teach cosmetization features. The examiner contents that a "scroll-up" command is a cosmetic feature. The appellant further argues that the there is no motivation to combine. The examiner contends that the motivation to combine is stated in the rejection and not a subjective belief by an unknown authority.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Douglas Blair
DBB

Conferees:

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